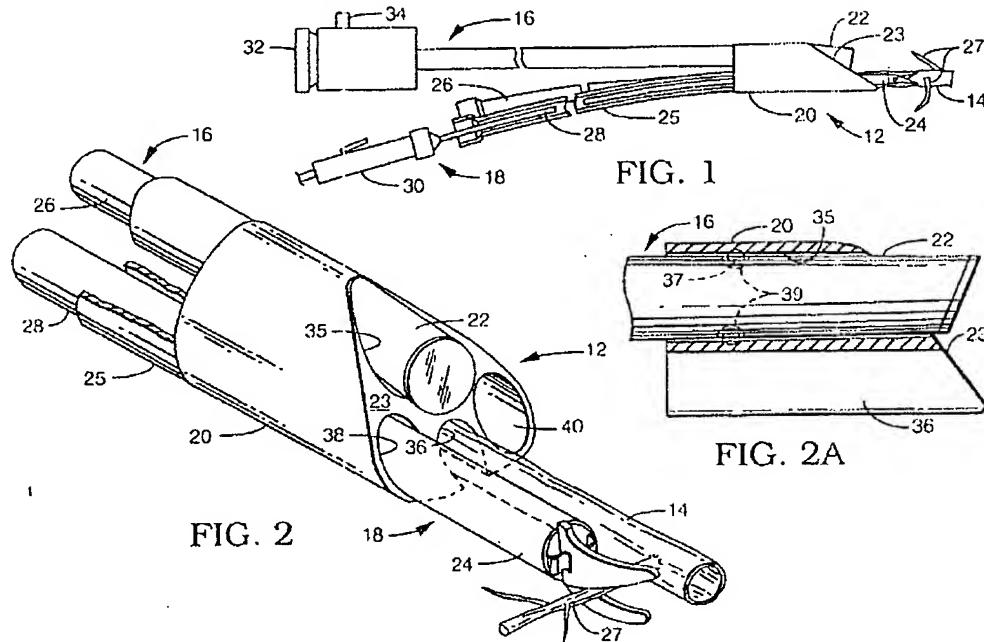


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To explain the difference between Ginn and Claim 1, FIGS. 1, 2, and 2A of Ginn are copied below:



It is the Examiner's position that element 16 of Ginn is the Claim 1 shaft, member 20 is the Claim 1 guide tube, and scissors 18 is the Claim 1 means for cutting tissue. FIG. 1 shows element 16 as being the endoscope (see also Ginn col. 3, line 7), and FIGS. 2 and 2A shows the endoscope 16 extending through a lumen 35 of a member 20 (see Ginn col. 3, lines 40-47). FIG. 2 also shows the end of the endoscope 16 is closed by virtue of the stippling shown, and thus cannot be the Claim 1 shaft that has a distal end with an opening to outside of the instrument. No opening in any shaft is present in Ginn through which the guide tube of Claim 1 may extend. Moreover, none of channel or lumen 35, 36, 38, or 40 of FIG. 2 can represent the opening of the Claim 1 shaft, since nothing is described or even suggested in Ginn for extending from any such channels any guide tube as called for in Claim 1.

Even if one considered member 20 as the Claim 1 guide tube as contended by the Examiner, Ginn shows in FIG. 2 the opposite of Claim 1 with regards to the scissors 18 which the Examiner contends is the Claim 1 means for cutting tissue. Note that in FIG. 2 scissors 18 extend along an interior surface (of lumen 38) of Ginn's member 20, while Claim 1 clearly

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describes that the means for longitudinally cutting tissue is guided along the outer tubular surface of the guide tube through the shaft's opening, not vice versa.

Moreover, Claim 1 describes "a path through at least said opening of said guide tube for extending a guide wire". Member 20 has a vein 14 along 36, but this is not comparable to a guide wire.

Furthermore, Claim 1 describes means for cutting tissue guided through an opening of the shaft. As evident from the above FIGS. 1 and 2, scissors 18 and endoscope 16 extend through different lumens 35 and 38. Thus scissors 18 cannot extend through the endoscope 16 which would be necessary if the endoscope 16 were the Claim 1 shaft as contended by the Examiner. Thus, it cannot be said that Ginn FIG. 2 shows a shaft having an opening through which any means for cutting tissue is guided. Rather, FIG. 2 shows the opposite to that contended by the Examiner by Ginn's use of member 20.

Thus, Ginn fails to show each and every element of Claim 1 where Ginn lacks the combination of shaft having an opening, a guide tube extended through such opening, and means for cutting guided from such opening along the outer tubular surface of the guide tube. Thus, Claim 1 and those rejected dependent upon at least Claim 1 cannot be anticipated by Ginn, and Claim 1 and its dependent Claims should be allowable.

In regards to Claim 25, for reasons argued above, there is no member in Ginn which guides movement of a blade out any end of a shaft. There is no shaft out of which any blade is moveable, rather the scissors 18 contended by the Examiner to be the Claim 25 blade extends apart from the endoscope 16 contended by the Examiner to be the Claim 25 shaft. This is clearly evident from above FIG. 1 of Ginn. Thus, Claim 25 and those rejected dependent upon at least Claim 25 cannot be anticipated by Ginn.

In regards to Claim 31, Claim 31 describes a shaft having an end and a blade at the end movable to extend out of the shaft to cut tissue when present outside of the instrument. There is no shaft out of which any blade is moveable, rather the scissors 18 which the Examiner contends is the Claim 31 blade extends apart from the endoscope 16 contended by the Examiner to be the Claim 31 shaft. This is clearly evident from the above FIG. 1 of Ginn. Thus, Claim 31 also cannot be anticipated by Ginn as each any every element of Claim 31 is not found in Ginn.

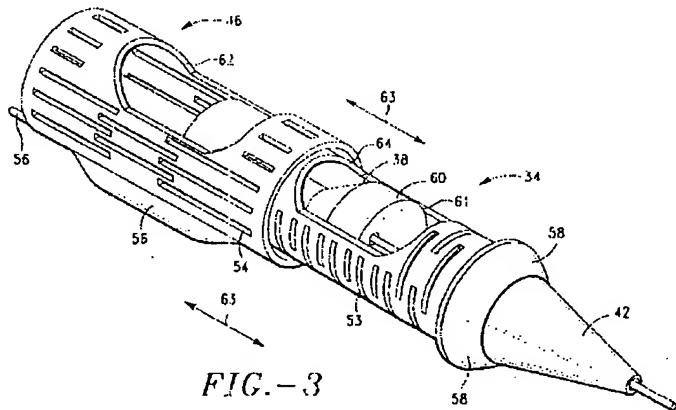
The Examiner rejected Claims 4-5, 8-10, 20-24, and 29 under 35 U.S.C. 103(a) as being unpatentable over Ginn in view of U.S. Patent No. 6,036,707 (Spaulding). Claims 4-5 and 10

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depend on at least Claim 1, and Claim 29 depends on Claim 25. For reasons argued earlier, Claims 1 and 25 are patentable over Ginn. Spaulding also fails to describe or suggest Claims 1 and 25, for e.g., the Claim 1 guide tube is not suggested in Spaulding since its cutter 60 is not guided along an outer tubular surface of any guide tube, and Spaulding teaches the opposite with respect to the Claim 25 blade guiding member being non-movable with respect to the shaft of the instrument. Thus, along with Claims 1 and 25 their Claims 4-5, 10 and 29 are patentable over the combination of Ginn and Spaulding, and withdrawal of the rejection of Claims 4-5, 10 and 29 is requested.

Claim 8 describes a blade shuttle extendable from or retractable back through an opening in the instrument's shaft. In Ginn, there is no shaft having any opening through which any blade or blade shuttle is extendable or retractable, rather the scissors 18 which the Examiner contends is the Claim 8 blade is apart from the endoscope 16 contended by the Examiner to be the Claim 8 shaft (see FIG. 1 above). Further, there is no guide tube in Ginn having an outer surface along which any blade or blade shuttle travels (see again FIG. 1 above).

The Examiner contends that Spaulding teaches a blade shuttle that travels along the outer surface of a guide tube in FIG. 3 of Spaulding (see page 5 of the 1/27/10 Office Action). However, the below copied FIG. 3 of Spaulding shows the opposite of the Examiner's position:



As shown in this figure, neither work element 38, nor the cutter 60, of Spaulding can be the blade shuttle of Claim 8, since they do not ride along the outer tubular surface of any tube, and thus nothing in the combination with Ginn suggests moving its scissors 18 in a shuttle along any outer tubular surface of any tube. Rather Spaulding's work element 38 and its cutter 60

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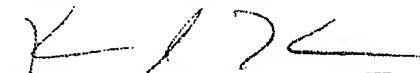
moves "within the housing 34". Moreover Ginn, like Spaulding, also teaches the opposite of Claim 8 by designing it scissors 18 to extends along an interior surface (of lumen 38) of Ginn's member 20 contended by the Examiner contends to be the guide tube of Claim 8. Accordingly, the combination of Ginn and Spaulding cannot describe or suggest the blade shuttle or guide tube of Claim 8, or of Claims 9 and 20-24, and withdrawal of the 35 U.S.C. 103(a) rejection of Claims 8-9 and 20-24 is requested.

Claims 5 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ginn, in view of Spaulding and U.S. Patent No. 5,562,694 (Sauer et al.) "Sauer". Claims 5 and 20 depend on at least one of Claims 1 and 8, which for reasons argued earlier are patentable over Ginn and Spaulding. As Sauer fails to describe or suggest that argued above as being absent in Ginn and Spaulding from Claims 1 and 8, Claims 5 and 20 cannot be obvious in view of the combination of Ginn, Spaulding, and Sauer, and withdrawal of the rejection of Claim 5 and 20 is requested.

It is believed the Application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Kenneth J. Lukacher  
Attorney for Applicant  
Registration No. 38,539

South Winton Court  
3136 Winton Road South, Suite 301  
Rochester, New York 14623  
Telephone: (585) 424-2670  
Facsimile: (585) 424-6196